to two hours. Pleading, Property I, Torts, Bills and Notes, and Evidence are divided this year into two sections; Criminal Law has four divisions. On the whole, then, there appears to be a general development in the directions recommended by the Committee of the Board of Overseers.

GOVERNMENT OF TERRITORIES AND COLONIES. — The most important legal question brought into prominence by the war with Spain regards the attitude of the Federal Constitution towards government of newly acquired Territories. One branch of this question is wholly unsettled. In passing laws for Hawaii and for Porto Rico, is Congress to keep within the letter of the amendments, and the similar provisions of the Constitution itself, or is it free to establish whatever colonial system it sees fit? Two cases, oddly enough, have arisen during the year in regard to previously existing Territories which throw light upon the matter. In one of them the court had to pass upon the constitutional right of a criminal in the Territories to a trial by twelve jurors. *Thompson* v. *State of Utah*, 18 Sup. Ct. Rep. 620. The defendant committed larceny in Utah before it was admitted to the Union as a State. After Utah became a State he was tried and convicted by eight jurors, in accordance with a provision in the Utah constitution. If the prisoner had been entitled to a trial by twelve jurors when he committed the crime, the provision in the Utah constitution would, so the court held, be *ex post facto*, and void as regarded him. The court decided that the Sixth Amendment, guaranteeing a trial by twelve jurors, did extend to Utah as a Territory, and hence that the trial was invalid. The reasoning was comprehensive, and would seem at first sight to settle the question. But since a United States statute expressly extended the Federal Constitution to the Territory of Utah, the opinion of the court is merely an addition to the line of *dicta* that are to the same effect.

Another case, decided in the Circuit Court of Appeals, tends in the opposite direction. *Endleman* v. *United States*, 86 Fed. Rep. 456 (C. C. A. Ninth Cir.). The question was whether or not certain restrictive liquor legislation for Alaska was constitutional. The objection, among others, was made that the law amounted to a deprivation of property, and was therefore invalid. The court answered, not that this objection was based upon a misconception of the Fifth Amendment, — which would have been a very good answer, and herein lies the weakness of the decision, — but that this argument found its refutation in the fact that Alaska was not formed under the general terms of the Constitution, and that the law in question was justified by the full power of Congress over the Territories.

The point of difference is clear. Alaska and Utah may indeed be distinguished on the ground that when Congress formed the territorial government of Utah and admitted a representative, by that act, even in the absence of an express statute, it extended the constitutional provisions to Utah. In the case of Alaska no such extension has been made. Alaska would thus be the basis by which to judge Porto Rico. No distinction of this sort, however, is hinted at in the Supreme Court decisions, and it is not likely to be made. The probability is that the *dicta*, of which the Utah case gives an example, will be followed and applied to the colonies. Yet it is not too late to point out that there is no authority which has given at all an adequate treatment to the matter. Mr. Justice Bradley himself

admitted that the personal rights granted by the Constitution extended to the Territories only by necessary inference. *Mormon Church* v. *United States*, 136 U. S. 1, 43. But why, it may be asked, is this inference necessary? If it is necessary, it should apply equally to the control of tribal Indians; but in dealing with them Congress has never felt itself limited by the amendments or by the analogous clauses in the Constitution itself. On principle, the Constitution is not to be regarded as a curb on a dangerous legislature, nor did the framers so regard it. Perhaps they never thought of colonies except with vagueness; but if they did, they surely did not intend to set up hard rules for their government. Much less were the amendments intended for the present contingency, being framed for what was felt to be a lack in the existing state of affairs, to protect the people of the States then existing, and possibly the subsequent States that might be admitted. 2 Lloyd, Debates of Congress, 224, 227. When colonies come, we cannot suppose that the Constitution or its amendments were meant as checks upon the nation's necessary political experience, and we should avoid any inference tending to give them that effect. Politic or impolitic as the possession of colonies may be, Congress should be unfettered in devising a system of laws for them.

THE LIABILITY OF LANDOWNERS TO CHILDREN. — The conclusion was reached in a recent leading article that upon principle the law ought not to impose upon a landowner a special liability to children entering his land without permission, although the children were attracted by his method of making beneficial use of his premises. 11 HARVARD LAW REVIEW, 349, 434. There is upon this question a remarkable conflict of authority. The line of decisions has attained a certain notoriety as the "turn-table cases;" but an exhaustive review of the authority must include, as did the principal article, an examination of collateral cases where the injury was the result of other beneficial user.

In the few months since the publication of the article referred to the main question has been considered in several decisions. Of first importance are the decisions in jurisdictions where the question was yet an open one. In the very case of injury from a turn-table two New Jersey courts, — the Supreme Court and the Court of Errors and Appeals, — declare in able opinions, though with dissent in each case, that there is no special duty cast upon the landowner to protect the child. On the other hand, the Illinois court, in the case of an injury in a grain elevator, evidently inclines to the opposite view. In Michigan, the court distinguishes an unguarded street car from a turn-table; yet the decision notes the conflict of authority, and cautiously inclines toward the decisions for the landowner. Again, the North Dakota court held for the landowner in the case of an injury to a child by coming in contact with moving shafting; and in a *dictum* an opinion is clearly indicated adverse to the turn-table cases. Upon the whole, then, these last cases distinctly follow the tendency of the decisions of late years to deny that the landowner is under any special liability to the child. *Turess* v. *New York, S. & W. R. R. Co.*, 40 Atl. Rep. 614 (N. J. Sup.); *Delaware, L. & W. R. R. Co.*, v. *Reich*, 40 Atl. Rep. 682 (N. J. C. A.); *Kaumeier* v. *City Electric Ry. Co.*, 74 N. W. Rep. 481 (Mich.); *O'Leary* v. *Brooks Co.*, 75 N. W. Rep. 919 (No. Dak.); *Siddall* v. *Jansen*, 48 N. E. Rep. 191 (Ill.).

When a State has once committed itself to the turn-table doctrine that